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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Jeffrey Erdfarb

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EXAMINER

COHEN, AMY R

ART UNIT

PAPER NUMBER

2859

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

12/19/2006

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/003,198

Applicant(s)

ERDFARB, JEFFREY

Examiner

Amy R. Cohen

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2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Petition Decision 9/22/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 February 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claims 13-28 are objected to because of the following informalities:

Claims 13-28, claim language is objected to regarding the term “real-life”. In the original specification, the terms “actual” and “non-actual” are used. The current amendment now uses the term “real-life”. Examiner believes that none of these terms accurately describe Applicant’s invention. It appears that Applicant is referring to measurements made on a scaled ratio drawing of objects and measurements made with conventional measuring means of the actual objects. All of the measurements, on drawings of the objects or on the objects themselves are “actual,” “real-life” measurements, since none of the measurements are imaginary or lead to imaginary results.

Claim 20, line 4 “the drawing” should read “the second drawing”.

Claim 21, line 10-11 “the corresponding marks” should read “the second corresponding marks”.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 21, 24-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Samuels (U. S. Patent No. 4,484,395).

Regarding claims 21, 24-26: Samuels teaches a device (10) for determining a size of an object in real-life, the device comprising: a first set of regularly spaced indicia (at 20, the numbers 3, 6, 9) used to size the object when it is depicted at a first scale other than real-life (Fig. 1, Col 1, lines 60-66); a first and second mark (20) disposed on the first set of indicia for sizing the object between the marks (the subdivision marks 20 have first and second marks for sizing); a second set of regularly spaced indicia (18) corresponding to the first set of indicia, the second set of indicia having a spacing between the indicia related to the first set of indicia by an inverse to the first scale (Fig. 1, Col 2, lines 32-43, lines 50-54), the second set of indicia not being equivalent to an established measurement system in real-life (in the Fig. 1, the first scale is  $\frac{1}{4}$  inch to 1 foot, the second set of indicia, 18 reflect the inverse of this first scale); corresponding first and second marks (16) disposed on the second set of indicia for sizing the object in real-life using the corresponding marks (Fig. 1, Col 2, lines 32-43, lines 50-54).

Samuels teaches the measurement device wherein the first set of indicia comprises numerical values (Fig. 1) and the second set of indicia comprises numerical values (Fig. 1).

Samuels teaches the measurement device wherein the first and second set of indicia have a starting point adjacent to each other (Fig. 1).

Samuels teaches the device wherein the scale corresponds to one of an engineering and architectural scale (Col 2, lines 38-43).

Regarding claim 27: Samuels teaches a method of sizing an object in real-life; the method comprising the steps of: locating a first and a second mark on a first set (16, 18, wherein the first mark is the line and the second mark is the numerical value) of regularly spaced indicia to size an object depicted at a first scale other than real-life (Fig. 1, Col 1, lines 50-59, Col 2,

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lines 50-54); locating a corresponding first and second mark on a second set (20, wherein the first mark is the line and the second mark is the numerical value) of regularly spaced indicia, which are not equivalent to an established measurement system in real-life (Col 1, lines 60-66, Col 2, line 55-Col 3, line 11, wherein the second set corresponds to the first set by being increments of the first set).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 13-23, 27, 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Samuels in view of Shoemaker (U. S. Patent No. 4,314,408).

Regarding claims 13-18: Samuels discloses a measuring device (10) laying out a first distance in real-life, the first distance being related to a first dimension measured on a drawing depicting features at a first scaling ratio relative to real-life, the measuring device comprising a set of indicia (18 on the ¼ inch equals 1 foot scale) comprising marks (16) correlating to a common system of units and being adjusted linearly by the inverse of the first scaling ration wherein the first dimension matches the first distance (Fig. 1, Col 2, lines 3-5, lines 32-54).

Samuels discloses the measurement device being adapted for laying out a second distance in real-life, wherein a second distance in real-life is related to a second dimension measured on a second drawing depicting features at a second scaling ratio relative to real-life, comprising a

second set of indicia (18 on the  $\frac{1}{2}$  inch equals 1 foot scale) comprising marks (16) correlating to the common system of units and being adjusted linearly by the inverse of the second scaling ratio wherein the second dimension matches the second distance (Fig. 1, Col 2, lines 3-5, lines 32-54).

Samuels discloses the measurement device wherein the first set of indicia comprise numerical values and the second set of indicia comprises numerical values (Fig. 1); wherein the first scaling ratio corresponds to one of an engineering and architectural scale (Col 2, lines 38-43).

Samuels does not disclose the measurement device comprising a set of indicia comprising marks matching a common system of units; comprising a housing; wherein the first and second set of indicia have a starting point adjacent each other.

Shoemaker discloses a measurement device comprising a set of indicia comprising marks matching a common system of units (Figs. 4 and 18, Col 5, lines 46-60, Col 14, lines 44-54); comprising a housing (21); wherein the first and second set of indicia have a starting point adjacent each other (Figs. 4, 18, Col 14, lines 44-54).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to add a set of indicia denoting a common system of units and housing to the measurement device of Samuels, as taught by Shoemaker, since Shoemaker discloses that adding sets of indicia increases the usefulness of the device by allowing a user to measure distances in several different scales and to easily convert measured distances between sets of indicia in order to obtain the distance value in differing measurement scales (Shoemaker, Col 3, lines 15-37, Col 15, lines 44-54) and to provide a housing for the sets of indicia so that a user could easily select the appropriate set of indicia (Shoemaker, Col 2, line 56-Col 3, line 14).

Regarding claims 19 and 20: Samuels discloses a method of laying out a first distance in real-life, the first distance being related to a first dimension measured on a drawing depicting features at a first scaling ration relative to real-life, the method comprising: consulting a first set of indicia, the first set of indicia comprising marks on a measuring device, the marks correlating to a common system of units and being adjusted linearly by the inverse of the first scaling ratio wherein a first dimension matches the first distance (Fig. 1, Col 2, lines 32-54, Col 3, lines 7-17).

Samuels discloses the method wherein a second distance in real-life is related to a second dimension measured on a second drawing depicting features at a second scaling ratio relative to real-life, comprising the steps of consulting a second set of indicia, the second set of indicia comprising marks on a measuring device, the marks correlating to the common system of units and being adjusted linearly by the inverse of the second scaling ratio wherein a second dimension matches the second distance (Fig. 1, Col 2, lines 32-54, Col 3, lines 7-17 and lines 40-53).

Samuels does not disclose the method comprising determining a first dimension on the drawing in units of a common system of units; comprising determining a second dimension on the second drawing in units of a common system of units.

Shoemaker discloses a method comprising determining a first dimension on the drawing in units of a common system of units (Col 12, lines 19-30, Col 13, lines 20-60); comprising determining a second dimension on the second drawing in units of a common system of units (Col 12, lines 19-30, Col 13, lines 20-60).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to add a set of indicia denoting a common system of units to the measurement method

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of Samuels, as taught by Shoemaker, since Shoemaker discloses that adding sets of indicia increases the usefulness of the device by allowing a user to measure distances in several different scales and to easily convert measured distances between sets of indicia in order to obtain the distance value in differing measurement scales (Shoemaker, Col 3, lines 15-37, Col 15, lines 44-54)

Regarding claims 21-23: Samuels discloses a device (10) for determining a size of an object in real-life, the device comprising: a second set of regularly spaced indicia (18 on the  $\frac{1}{4}$  inch equals 1 foot scale) corresponding to a first set of indicia, the second set of indicia having a spacing between the indicia related to the first set of indicia by an inverse to a first scale, the second set of indicia not being equivalent to an established measurement system in real-life (Col 2, lines 32-49); corresponding first and second marks (16) disposed on the second set of indicia for sizing the object in real-life using the corresponding marks (Fig. 1, Col 2, lines 50-54, Col 3, lines 7-17); the measurement system being adapted for determining a further size of an object in real-life when the object is depicted at a second scale other than real-life; the device comprising a third set of regularly spaced indicia (18 on the  $\frac{1}{2}$  inch equals 1 foot scale) corresponding to the first set of indicia, the third set having a spacing between the indicia related to the first set of indicia by an inverse to the second scale, the third set of indicia not being equivalent to an established measurement system in real-life (Fig. 1, Col 2, lines 50-54, Col 3, lines 7-17, and lines 40-53); corresponding first and second marks (16) disposed on the third set of indicia for sizing the object in real-life using the further corresponding marks (Fig. 1, Col 2, lines 50-54, Col 3, lines 7-17).



Samuels does not disclose the device comprising the first set of indicia as claimed; comprising a housing.

Shoemaker discloses a device comprising a set of indicia comprising marks matching a common system of units (Figs. 4 and 18, Col 5, lines 46-60, Col 14, lines 44-54); comprising a housing (21); wherein the first and second set of indicia have a starting point adjacent each other (Figs. 4, 18, Col 14, lines 44-54).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to add a set of indicia denoting a common system of units and housing to the measurement device of Samuels, as taught by Shoemaker, since Shoemaker discloses that adding sets of indicia increases the usefulness of the device by allowing a user to measure distances in several different scales and to easily convert measured distances between sets of indicia in order to obtain the distance value in differing measurement scales (Shoemaker, Col 3, lines 15-37, Col 15, lines 44-54) and to provide a housing for the sets of indicia so that a user could easily select the appropriate set of indicia (Shoemaker, Col 2, line 56-Col 3, line 14).

Regarding claims 27 and 28: Samuels discloses a method of sizing an object in real-life; the method comprising: locating a first and second mark on a second set of regularly spaced indicia, which are not equivalent to an established measurement system in real-life, to size the object; determining a size of an object in real-life when the object is depicted at a second scale other than real-life, the method comprising locating a further corresponding first and second mark on a third set of regularly spaced indicia, which are not equivalent to an established measurement system in real-life to size the object in real-life.

Samuels does not disclose the method comprising the first and second mark on a first set of regularly spaced indicia wherein the first set can be used to correspond with measuring either the second set of indicia or third set of indicia.

Shoemaker discloses a method of sizing an object in real-life comprising the first and second mark on a first set of regularly spaced indicia wherein the first set can be used to correspond with measuring either the second set of indicia or third set of indicia (Figs. 4 and 18, Col 5, lines 46-60, Col 12, lines 19-30, Col 13, lines 20-60, Col 14, lines 44-54).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to add a set of indicia denoting a common system of units to the measurement method of Samuels, as taught by Shoemaker, since Shoemaker discloses that adding sets of indicia increases the usefulness of the device by allowing a user to measure distances in several different scales and to easily convert measured distances between sets of indicia in order to obtain the distance value in differing measurement scales (Shoemaker, Col 3, lines 15-37, Col 15, lines 44-54).

#### ***Response to Arguments***

6. Applicant's arguments with respect to claims 13-28 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents disclose measuring devices Mainenti (U. S. Patent No. 4,495,709), Warner (U. S. Patent No. 3,419,962), Raeder (U. S. Patent No. 2,673,399), Fullilove

(U. S. Patent No. 2,468,191), Evans (U. S. Patent No. 2,124,550), and Horning (U. S. Patent No. 1,235,801).

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R. Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ARC  
December 13, 2006



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